

- a concealed flap;
- a first raised portion;
- a middle portion;
- a second raised portion;
- an exposed flap;

wherein the concealed flap is disposed adjacent to the first raised portion, the exposed flap is disposed adjacent to the second raised portion and the middle portion is disposed between the first raised portion and the second raised portion such that the concealed flap, the middle portion and the exposed flap are positioned in substantially the same plane, and such that the first raised portion is positioned in substantially the same plane as the second raised portion;

wherein:

- the top surface of the concealed flap of the first strip is positioned adjacent to the bottom surface of the second raised portion of the fifth strip;
- the top surface of the concealed flap of the second strip is positioned adjacent to the bottom surface of the first raised portion of the eighth strip;
- the top surface of the concealed flap of the third strip is positioned adjacent to the bottom surface of the first raised portion of the fifth strip;
- the top surface of the concealed flap of the fourth strip is positioned adjacent to the bottom surface of the second raised portion of the eighth strip;

- the top surface of the concealed flap of the fifth strip is positioned adjacent to the bottom surface of the second raised portion of the fourth strip;
- the top surface of the concealed flap of the sixth strip is positioned adjacent to the bottom surface of the first raised portion of the first strip;
- the top surface of the concealed flap of the seventh strip is positioned adjacent to the bottom surface of the first raised portion of the fourth strip;

the top surface of the concealed flap of the eighth strip is positioned adjacent to the bottom surface of the second raised portion of the first strip- ;

wherein a plurality of tiles are for covering a surface such that at least two exposed flaps of each tile are for receiving nails for fixedly attaching to the surface and at least two exposed flaps of each tile are for slidably inserting into the first and second raised portions on a next tile, such that the nails in the exposed flaps are covered and the plurality of tiles creates a seamless continuous appearance.

### **Remarks**

In the Office Action dated 10/05/2004, the Examiner rejected claim 1 under 35 U.S.C. 103(a) over Robinson ('098) in view of Morrison ('554). Claim 1 has been amended to narrow its scope and amplify the elements that distinguish this invention from that claimed in the '098 patent. Applicant respectfully submits that Claim 1, as amended, is supported by the specification as originally filed. No new matter has been added.

Specifically, even though the '098 patent teaches a number of strips (elements 1 and 17 in the '098 patent) woven into a lathing to cover a surface, the '098 patent neither teaches nor suggests a plurality of tiles, as disclosed in this invention, for covering a surface such that at least two exposed flaps of each tile are for receiving nails for fixedly attaching to the surface and where at least two exposed flaps of each tile are for slidably inserting into the first and second raised portions on a next tile, such that the nails in the exposed flaps are covered and the plurality of tiles creates a seamless continuous appearance.

In contrast, the '098 patent provides no possibility for slidably inserting of the strips 1 and 17 (or their "ends") into raised portions thereof in order to conceal nails and create a seamless continuous appearance. Rather, if the strips 1 and 17 are sufficiently long, they can cover a surface of essentially the same length as the strips.

However, the strips 1 and 17 cannot be used as tiles to cover a surface as disclosed in this invention.

Based on the above, applicant respectfully argues the following:

(1) The '098 patent is teaching away from the invention disclosed in this application, therefore, the '098 patent is not available as reference for the purpose of Section 103(a). (See *In re Gurley*, 27 F.3d 551, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994).)

(2) At the very least, the present invention is patentably distinct from the '098 patent.

Accordingly, applicant submits that Claim 1 is a condition for allowance.

Applicant includes a clean copy of the claim as amended.

**Conclusion**

For all the reasons advanced above, applicant respectfully submits that the application is in condition for allowance and that action is earnestly solicited.

Respectfully submitted,

  
Vladimir Khiterer

Enclosure

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to:

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Claim 1:

1. A tile comprising a first, second, third, fourth, fifth, sixth, seventh and eighth strips, all formed from curved plywood and comprising a top surface and a bottom surface;

wherein each of the first, second, third, fourth, fifth, sixth, seventh and eighth strips comprises:

- a concealed flap;
- a first raised portion;
- a middle portion;
- a second raised portion;
- an exposed flap;

wherein the concealed flap is disposed adjacent to the first raised portion, the exposed flap is disposed adjacent to the second raised portion and the middle portion is disposed between the first raised portion and the second raised portion such that the concealed flap, the middle portion and the exposed flap are positioned in substantially the same plane, and such that the first raised portion is positioned in substantially the same plane as the second raised portion;

wherein:

- the top surface of the concealed flap of the first strip is positioned adjacent to the bottom surface of the second raised portion of the fifth strip;
- the top surface of the concealed flap of the second strip is positioned adjacent to the bottom surface of the first raised portion of the eighth strip;

- the top surface of the concealed flap of the third strip is positioned adjacent to the bottom surface of the first raised portion of the fifth strip;
- the top surface of the concealed flap of the fourth strip is positioned adjacent to the bottom surface of the second raised portion of the eighth strip;
- the top surface of the concealed flap of the fifth strip is positioned adjacent to the bottom surface of the second raised portion of the fourth strip;
- the top surface of the concealed flap of the sixth strip is positioned adjacent to the bottom surface of the first raised portion of the first strip;
- the top surface of the concealed flap of the seventh strip is positioned adjacent to the bottom surface of the first raised portion of the fourth strip;

the top surface of the concealed flap of the eighth strip is positioned adjacent to the bottom surface of the second raised portion of the first strip;

wherein a plurality of tiles are for covering a surface such that at least two exposed flaps of each tile are for receiving nails for fixedly attaching to the surface and at least two exposed flaps of each tile are for slidably inserting into the first and second raised portions on a next tile, such that the nails in the exposed flaps are covered and the plurality of tiles creates a seamless continuous appearance.